IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

SATURDAY, THE 18TH AUGUST 2007 / 27TH SRAVANA 1929

WA.No. 713 of 2007()

AGAINST THE JUDGEMENT IN WPC.8086/2005 Dated 11/02/2005
.....

APPELLANTS/RESPONDENTS 1 & 2 THE W.P.(C):
----

1. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, GOVERNMENT SECRETRIAT,THIRUVANANTHAPURAM.**

2. **THE DIRECTOR GENERAL OF POLICE, POLICE HEADQUARTERS, THIRUVANANTHAPURAM.**

BY ADV. GENERAL SRI. C.P. SUDHAKARA PRASAD,
GOVERNMENT PLEADER SRI. K. SANDESH RAJ,
GOVERNMENT PLEADER SRI. BENNY GERVACIS

RESPONDENTS/PETITIONERS 1 TO 70 IN THE W.P.(C):
----

1. **JALALUDHEEN RAWTHER, (PC), S/O.SULAIMAN RAWTHER,UDAYAMUTTATHU,KISHAKKETHIL, MANNADI POST,PATHANAMTHITTA.**

2. **K.MURALIDAS, (ASI), S/O.KOCHUKUNJU NAIR, KARTHIKA, IRAVAN POST,KONNY.**

3. **DASAN, (HC), S/O.P.G.THOMAS,PATHALIL, MUNDUKOTTUKKAL POST,PATHANAMTHITTA.**

4. **K.G./MOHANAN, (HC), S/O.GOVINDANSREEVALS AM, VALLAKODE POST,PATHANAMTHITTA.**

W.A. NO. 713/2007:

5. SAM MATHEW, (HC), S/O.MATHEW
PUTHIYATHU HOUSEM VADAKUPURAM POST,PATHANAMTHITTA.

6. RAVEENDRAN, (HC), S/O.THANKAPPAN,
PUTHENPARAMBU THADATHIL,KADAMPANITTA,
PATHANAMTHITTA.

7. THOMAS, (HC), S/O.ABRAHAM DANIEL,
KAKKANNIYIL, NARANGANAM POST,PATHANAMTHITTA.

8. RAJASEKARAN, (PC),
S/O.JANARDANAN PILLAI, PARAMPINAZHIKATHU,
PERUMPUZHA POST,KOLLAM.

9. MATHEW GEORGE, (PC), S/O.K.GEORGE,
KALEECKAL KUZHAKATHIL, PANNIVIZHA, ADOOR POST.

10. ABDUL RAHIMAN, (PC),
S/O.MUHAMMED HASSAN RAWTHER,
PAKKEUVETTYM KADAKKAD, PANDALAM.

11. RADHAKRISHNAN NAIR, (PC), S/O.CHELLAPPAN
PILLAI, KRISHNAKRIPA, PARAKKODU POST.

12. MATHEW GEORGE (PC), S/O.T.M.GEORGE,
THANNIMOOTTIL,PUTHENPEEDIKA,PATHANAMTHITTA.

13. PRADEEP (PC), S/O.KARUNAKARAN NAIR,
VANCHIPATTU,VALLAMKULAM,THIRUVALLA.

14. MURALIDHARAN NAIR, (PC),
S/O.KUTTAPPAN NAIR, PATHALIL HOUSE,
VETTOOR POST,PATHANAMTHITTA.

15. RAHIM RAWTHER (PC), S/O.YOUSAF
RAWTHER, ODUHUMALLY HOUSE,
KAKKANAD, PANDALAM.

16. K.E.SUKUMARAN, (PC), S/O.ILLICHERUKKAN,
KANIYAMPADAICKAL, NANNUVAKKADU,
PATHANAMTHITTA.

17. ANANDAKUMAR (PC), S/O.RAGHAKURUP,
VAISHNAVAM, KUDASANADU, ALAPPEY.

18. ZAKKARIA MANI, (PC) S/O.MANI,
MANI BHAVAN, THUMPAMON,PATHANAMTHITTA.

19. SREEKRISHNAKUMAR, (PC) S/O.RAMANUJAN
NAIR,. VAISAKHAM, MANNADI POST,PATHANAMTHITTA.

W.A. NO. 713/2007:

20. K.SANIL, (PC) S/O.RAGIA, REENA NIVAS,
PADIRJATTEKARA POST,KOTTARAKKARA.

21. T.C.MANI, (DY.SP) S/O.CHATTAN,
THUNDIL THEKKETHIL HOUSE,MANTHUKA,
PATHANAMTHITTA.

22. T.GOPALAKRISHNA PILLAI (DYSP),
S/O.THANKAPPAN PILLAI, KALATHIL HOUSE,
ARINELOOR POST, KOLLAM.

23. JACOB JOB (DY.SP) S/O.P.C.CHACKO,
PULIMOOTIL HOUSE, FATHIMAPURAM POST,
CHANGANASERY.

24. P.D.RADHAKRISHNAN, (CI), S/O.DHAMODHARA
KURUP, PALATHU, MANIMALA POST, KOTTAYAM.

25. P.K.JAGADEES, (CI), S./O.KRISHNAPILLAI,
KANNAKATHU VILLA, VHAVERA SOUTH POST, KOLLAM.

26. AJITH.P.(CI), S/O.VIJAYAN,KODIYIL VEEDU,
VENNIKODU, AKATHUMURI, VARKALA.

27. K.SUDHARSANAN, (SI), S/O.P.M.GOPALAN,
CHETTORTHAZHAM,PANTHIRAMKAVU POST,
KOZHIKODE.

28. M.G.VIJAYAN, (ASI), S/O.GANGADHARAN,
MADATHUMTHARAYIL, VIJAYA BHAVAN, CHENNERKARA POST.

29. RAGHUNATH, (ASI), S/O.KOCHUPILLAI,
SREE BHAVAN, MANGARAM, KONNY POST.

30. BALACHANDRAN NAIR, (CI), S/O.SREEDHARAN
NAIR, SREERANGAM, KALLELI BHAGAM POST,
KARUNAGAPPALLY.

31. D.MURALEEDHARAN (HC),
S/O.V.K.DHAMODARAN, PUTHEN PURAYIL,
THONICHAL, EDAMON POST.

32. N.T.ANANDAN (RSI), S/O.N.K.THEVAN,
ADHITHYA BHAVAN,KARIPUZHA NORTH POST,

33. K.BALAKRISHNAN, (ASI), MANIPILALIL
HOUSE, AICKADU, KODUMON POST.

34. BABU E (PC), S/O.EBRAHIMKUTTY,
VATTAVILLA,PADINJATTATHIL,
KAMPALADY, POORUVAZY POST,
KOLLAM.

W.A. NO. 713/2007:

35. G.GOPAKUMAR (PC), S/O.M.N.GOPALAN, MUTTATHUKONAM POST, ELAVUMTHITTA.

36. SUNNY KUTTY.G.(PC) S/O.GEEVARGHESE MATHAI, KUTTIPLAVIL VEEDU,IRAVON POST, KONNY.

37. MURALEEDHARAN.B., (PC) S/O.BHASKARAN P.K USHAS, CHERNIKUNNAM, ANAYACHI POST, ADOOR.

38. SURESH KUMAR (PC) MUNDAVELIL, MAROOR, PRAMADOM, MALLASSERY POST, PATHANAMTHITTA.

39. RADHAKRISHNA KURUP (HC), S/O.PADMANABHA PILLAI,RAMAMANGALATHU HOUSE, PANAMPATTA, AVANEESWARAM POST, KOLLAM.

40. PRATHAPAN, (HC) S/O.PADMANABHAN, PRATHAP BHAVAN, KOTTAKATTUSSERI POST, NOORMADY.

41. VIJAYAKUMAR T. (PC), S/O.N.THANKAPPAN NAIR, SADHANA SOORANAD NORTH POST, KOLLAM.

42. K.K.BALAKRISHNAN, (HC), KRISHNA VILASOM, MALLAPPALLY WEST POST.

43. P.PRAKASH, (PC) S/O.V.PONNAPPAN PILLAI, SREE BHAVAN, KUNCTHOOR POST, KOLLAM.

44. KRISHNAKUMAR.B., (PC), S/O.BHARANTHAN, KARAMELAZHIKATU VEEDU, MANNADY POST, PATHANAMTHITTA.

45. SAJI CHACKO, (PC), S/O.S.CHACKO, THUNDIYIL HOUSE, KUNNAMTHANAM POST, MALLAPPALLY.

46. MADHU.K.R., (PC), S/O.RAJAGOPALAN, KURUVIKKATTIL VEEDU, KULATHOOR, VAIPUR, PATHANAMTHITTA.

47. SYAMLAL (PC), S/O.KARUNAKARAN NAIR, PARWATHY NIVAS, MANNADY POST.

48. JAYAPRADEEP (PC), S/O.CHELLAPPAN PILLAI, KULAKKADA POIST, KOLLAM.

49. ABDUL RASHEED V.M., (PC), S/O.MUHAMMED KUNJU, VILAYIL HOUSE, KIDANGAYAM NADARIL,PATHARAM POST, KOLLAM.

W.A. NO. 713/2007:

50. C.J.MARYKUTTY, (CI), THANDAPRA HOUSE, SHEPHERED NAGAR, MADAPPATTY POST, CHANGANASSERY.

51. USHAKUMARY V.R., (WSI), W/O.HARIKUMAR, HARI NIVAS, ARATTUPUZHA (VIA), CHENGANNUR,PATHANAMTHITTA.

52. SUMANGALI DEVI.K., (WSI), W/O.RAVINDRAN NAIR, SUMANGALI, KURUTHIKKADU. MUNNAR POST, ALAPPEY.

53. SUNNY.K., (PC). S/O.K.C.KUNJAPPY, PADIPURAYIL VEEDU, TVERKALA WEST, NORTH PUTHENAMABALAM POST, KOLLAM.

54. SHYMSUDEEN KUNJU.S., (PC), S/O.SULAIMAN RAWTHER, BISMI MANZIL, MANNADU THAZHAM, MANNADY POST, PATHANAMTHITTA.

55. GEORGE.K.SAMUEL (HC), S/O.A.G.SAMUEL, KOTTARATHIL HOUSE, PUTHEN PEEDIKA, OMALOOR POST, PATHANAMTHITTA.

56. VENUNATHAN (HC), S/O.M.R.GOPALAN, HC.1186, MALAYIL KAIPATTOOR POST, PATHANAMTHITTA.

57. U.K.ABDULLA (PC), S/O.K.M.KUNJU MOHAMMED, FALEILAYAM, VAZHAMON, VALACODE POST, PUNALUR.

58. SANTHOSH P.VARGHESE, (PC) S/O.GEE VARGHESE, EKKALA PLAMOOTTIL HOUSE, OYTHENCAVU POST, CHENGANNOOR, ALAPPUZHA.

59. SOMAN.R., (PC) S/O.A.RAGHAVAN, KOCHUVILA VEEDU, THUVAYOOR SOUTH POST, PATHANAMTHITTA.

60. KRISHNAKUMAR.A.(PC), PUTHENPUYAYIL, ACHANKOVIL POST, KOLLAM.

61. H.FASSALUDEEN (PC), S/O.HABEEBULLA, MOOPARU VEEDU,KADAKKAL, PANDALAM.

62. MATHEW VARGHESE, (PC) NO.C.8, POLICE QUARTERS,PATHANAMTHITTA.

W.A. NO. 713/2007:

63. D.SASI, (PC), S/O.P.K.DAMODARAN PILLAI, PADMAVILASOM,MUTHUPEZHUNKAL POST, KONNI.

64. VIJAYAN (PC), S/O.KRISHNA PILLAI, PUTHENPURA VEEDU,THEVALI, KOLLAM.

65. SHAJI.D., (PC) S/O.O.DANIEL, CHETTUKUZHIL, KADAMAN POST, PATHANAMTHITTA.

66. SUNIL KUMAR.D. (PC) S/O.DAMODHARAN NAIR, KOCHU VARAYANNOOR VEEDU, MANNADI POST.

67. M.S.GEORGE, (HC) S/O.GEEVARGHESE SKARIAH GIFTIN BHAVAN, V.KOTTAYAM POST, PATHANAMTHITTA.

68. HARIHARAN PILLAI.C., (PC) S/O.K.K.CHELLAPPAN PILLAI, PUTHENVEETIL, CHATTUKULAM POST, KOLLAM.

69. SHAJAHAN RAWTHER (PC) S/O.KAMALUDEEN RAWTHER, ELAMPONNIL PICHAVEDU, KURAMPALA, PANDALAM POST.

70. KURIAKOSE KURIEN, (ASI), S/O.N.K. KURIA-KOSE, MURUPPEL HOUSE, PUTHEN PEEDIKA, OMALLOR POST.

BY ADV. SRI.PHILIP M.VARGHESE.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 30/07/2007 ALONG WITH W.A NO. 1132/2006 AND CONNECTED CASES, THE COURT ON 18/08/2007 DELIVERED THE FOLLOWING:

Urgent Notice on C.M. APPLN. 359/2007.

It is submitted that the issue raised in this appeal has been raised in various other writ appeals and this Court has already admitted those appeals and granted stay. Even though the delay is not condoned, learned Government Pleader, placing reliance on a Division Bench decision of this Court in **State of Kerala v. Scaria** 1993(2) KLT 72) contended for the position that as far as the High Court is concerned, the fact that delay petition is pending is not a bar to grant interim orders of stay, pending disposal of the delay condonation petition. It is also contended that the fact that delay is yet to be condoned does not lead to a position of non existence of the appeal, relying on the decision of the apex Court in **Messrs. Mela Ram & Sons v. Commr. of Income-tax** (AIR 1956 SC 367). In the circumstances, there will be an interim stay of the judgment as prayed for, for a period of two weeks.

P.R.R. (J) A.D.(J)

19.3.2007.